

MAGNESITA REFRACTORIES	:	CIVIL ACTION NO. 1:17-CV-1587
COMPANY, and BAKER	:	
REFRACTORIES I.C., INC.,	:	(Chief Judge Conner)
	:	
Plaintiffs	:	
	:	
v.	:	
	:	
TIANJIN NEW CENTURY	:	
REFRACTORIES CO., LTD.,	:	
YINGKOU NEW CENTURY	:	
REFRACTORIES LTD., NEW	:	
CENTURY REFRACTORY	:	
SOLUTIONS INC., and DONALD	:	
GRIFFIN, an individual and doing	:	
business as Technical Consultant's	:	
Laboratories,	:	
	:	
Defendants	:	

AND NOW, this 28th day of February, 2019, upon consideration of defendants' motions (Docs. 36, 37) to dismiss the amended complaint, and the parties' respective briefs in support of and opposition to said motions, and for the reasons stated in the accompanying memorandum, it is hereby ORDERED that:

1. The motion (Doc. 36) to dismiss by defendant Donald Griffin is GRANTED in part and DENIED in part as follows:
 - a. Count I for misappropriation of trade secrets in violation of the Defend Trade Secrets Act (“DTSA”), 18 U.S.C. § 1836, is DISMISSED to the extent it relies on acts of misappropriation that occurred prior to the DTSA’s May 11, 2016 enactment date.
 - b. Count III for violation of the Racketeer Influenced and Corrupt Organizations Act (“RICO”), 18 U.S.C. § 1961 *et seq.*, is DISMISSED.

- c. The motion is otherwise DENIED.
- 2. The motion (Doc. 37) to dismiss by defendants Tianjin New Century Refractories Co., Ltd. (“Tianjin”), Yingkou New Century Refractories Ltd. (“Yingkou”), and New Century Refractory Solutions Inc. (“New Century”) is DEFERRED in part, GRANTED in part, and DENIED in part as follows:
 - a. The motion is DEFERRED with respect to specific personal jurisdiction and general alter-ego general jurisdiction over New Century pending jurisdictional discovery and a ruling on New Century’s Rule 12(b)(2) arguments.
 - b. Count I for misappropriation of trade secrets in violation of the DTSA is DISMISSED to the extent it relies on acts of misappropriation that occurred prior to the DTSA’s May 11, 2016 enactment date.
 - c. Count III for violation of RICO is DISMISSED.
 - d. The motion is otherwise DENIED with respect to the Rule 12(b)(5) and Rule 12(b)(6) issues raised therein.
- 3. Plaintiffs are granted leave to amend their civil RICO claim within twenty (20) days of the date of this order. In the absence of a timely-filed amended complaint, the above-captioned action shall proceed on the remaining claims.
- 4. Tianjin, Yingkou, and Griffin shall respond to plaintiffs’ amended complaint (Doc. 33) in accordance with the Federal Rules of Civil Procedure.
- 5. Plaintiffs and New Century are granted until **Friday, May 24, 2019**, to conduct discovery limited to the jurisdictional issues delineated in the court’s memorandum opinion of today’s date.
- 6. The following supplemental briefing schedule shall follow the close of the jurisdictional discovery period:
 - a. Plaintiffs shall file a supplemental brief in opposition to New Century’s motion (Doc. 37) to dismiss for lack of personal jurisdiction within fourteen (14) days after the close of jurisdictional discovery.

- b. New Century shall file a supplemental brief in reply within fourteen (14) days after the filing of plaintiffs' supplemental brief.

/S/ CHRISTOPHER C. CONNER
Christopher C. Conner, Chief Judge
United States District Court
Middle District of Pennsylvania